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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
COBANOGLU, DILEK B	
ART UNIT	PAPER NUMBER
3626	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/059,929	BUI ET AL.	
	Examiner	Art Unit	
	DILEK B. COBANOGLU	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-191* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-191* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *8/24/2004,8/23/2004,5/30/2002*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/2007 has been entered.

2. Claims 1-191 have been examined.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-191 are rejected under 35 U.S.C. 102(e) as being unpatentable by White et al. (hereinafter White) (U.S. Patent No. 6,790,198 B1).

A. As per claim 1, White discloses a method for operating a medical device, the method comprising the steps of:

i. inputting into a first computer a first patient identifier and an operating parameter for the medical device (White; col. 6, line 48 to col. 7, line 57);

ii. inputting into a second computer, from a first source, a second patient identifier (White; col. 15, lines 3-20);

iii. inputting into the second computer, from a second source, a medication identifier, the medication identifier including a third patient identifier (White; col. 9, lines 35-43);

iv. sending the medication identifier to the first computer, if the second patient identifier is equivalent to the third patient identifier (White; col. 6, line 48 to col. 7, line 57); and

v. sending the operating parameter from the first computer to the medical device, if the third patient identifier is equivalent to the first patient identifier, where the operating parameter does not pass through the second computer (White; col. 4, lines 13-52).

B. As per claim 2, White discloses the method of claim 1, further comprising the step of: inputting into the first computer a second medication identifier, where the step of sending the operating parameter to the medical device is performed only if the first and second medication identifiers are equivalent (White; col. 6, line 48 to col. 7, line 57).

C. As per claim 3, White discloses the method of claim 1, where the medical device is an infusion pump (White; abstract, col. 4, lines 13-20).

D. As per claim 4, White discloses the method of claim 1, where the step of inputting into the first computer includes converting a signal generated by an input device to a computer readable medium format (White; col. 6, line 48 to col. 7, line 57).

E. As per claim 5, White discloses the method of claim 1, where the first computer is at a central location (White; col. 4, lines 13-52, figure 2).

F. As per claim 6, White discloses the method of claim 1, where the first computer is a pharmacy computer (White; col. 7, lines 21-57, figure 2)

G. As per claim 7, White discloses the method of claim 1, where the first patient identifier is one of a group of identifiers, where the group of identifiers consists of: a patient name, a patient social security number, a patient blood type, a patient address, a patient's allergy, a hospital patient ID number, a hospital bed location, and a name of a patient's relative (White; col. 13, lines 3-7).

H. As per claim 8, White discloses the method of claim 1, where the operating parameter is one of a group of operating parameters, where the group of operating parameters consists of: a medication flow per unit of time, a quantity of medication, a dosing unit, a dosing duration, a dosing volume, a drug name, a dose unit, and a monitoring limit (White; col. 13, lines 3-7).

I. As per claim 9, White discloses the method of claim 1, where the step of inputting into a second computer from a first source includes converting a signal generated by an input device to a computer readable medium format (White; col. 9, lines 31-58).

J. As per claim 10, White discloses the method of claim 1, where the first source is a wristband (White; col. 15, lines 3-20).

K. As per claim 11, White discloses the method of claim 1, where the first source is one of a group of first sources, where the group of first sources consists of: a bar code, a bar code reader, a wristband, a tag, a drug label, laser readable data, a camera-type bar code reader, an RFID reader, a magnetic stripe reader, and radio-frequency readable data (White; col. 15, lines 3-20).

L. As per claim 12, White discloses the method of claim 1, where the second computer is at a remote location (White; col. 9, lines 35-58).

M. As per claim 13, White discloses the method of claim 1, where the second computer is a personal digital assistant (White; col. 9, lines 35-58).

N. As per claim 14, White discloses the method of claim 1, where the second source is a medication label (White; col. 9, lines 35-58).

O. As per claim 15, White discloses the method of claim 1, where the second source is one of a group of second sources, where the group of second sources consists of: a bar code, a bar code reader, a wristband, a tag, a medication label, laser readable data, and radio-frequency readable data (White; col. 9, lines 35-58, col. 13, lines 48-62).

P. As per claim 16, White discloses the method of claim 1, where the medication identifier includes one of a group of medical identifiers, where the group of medical identifiers consists of: a drug name, a dosage, a manufacturer, a batch, an expiration date, a National Drug Code (NDC) number, a proprietary database

drug identifier, a company product code number, and a drug prescriber (White; col. 5, lines 44-65).

Q. As per claim 17, White discloses the method of claim 1, further comprising the step of: sending the operating parameter to the second computer if the first and second patient identifiers are equivalent (White; col. 9, lines 31-58).

R. As per claim 18, White discloses the method of claim 1, further comprising the step of: using the operating parameter to program the medical device (White; col. 13, lines 3-20).

S. As per claim 19, White discloses the method of claim 1, where the step of sending the medication identifier to the first computer includes the use of a wireless communication path (White; col. 9, lines 31-58).

T. As per claim 20, White discloses the method of claim 1, where the step of sending the operating parameter from the first computer to the medical device includes the use of a wireless communication path (White; col. 9, lines 31-58).

U. As per claim 21, White discloses a system for operating a medical device, the system comprising:

i. a first computer, the first computer designed to accept a first patient identifier and an operating parameter for the medical device (White; col. 6, line 48 to col. 7, line 57);

ii. a second computer, the second computer designed to accept a second patient identifier from a first source, the second computer designed to accept a medication identifier from a second source, the

medication identifier including a third patient identifier (White; col. 15, lines 3-20),

iii. where the second computer is designed to send the medication identifier to the first computer if the second patient identifier and the third patient identifier are equivalent (White; col. 6, line 48 to col. 7, line 57);

iv. where the first computer is designed to send the operating parameter to the medical device if the third patient identifier is equivalent to the first patient identifier, where the operating parameter does not pass through the second computer (White; col. 4, lines 13-52).

V. As per claim 22, White discloses the system of claim 21, where the first computer is designed to accept a second medication identifier, where the first computer is designed to send the operating parameter to the medical device only if the first medication identifier is equivalent to the second medication identifier (White; col. 6, line 48 to col. 7, line 57).

W. Claims 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 repeat the same limitations as claims 3, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15 and 16 respectively, therefore they're rejected with the same reasons given above for those claims, and incorporated herein.

X. As per claim 35, White discloses the system of claim 21, where the first computer is designed to send the operating parameter to the medical device if the second patient identifier and the third patient identifier are equivalent to the first patient identifier (White; col. 13, line 63 to col. 14, line 23).

Y. As per claims 36-40, they are apparatus claims, which repeat the same limitations of claims 1-3, 17 and 18, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of White disclose the underlying process steps that constitute the methods of claims 1-3, 17 and 18, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 36-40 are rejected for the same reasons given above for claims 1-3, 17 and 18.

Z. As per claims 41-44, they are system claims, which repeat the same limitations of claims 1, 2, 3 and 17, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of White disclose the underlying process steps that constitute the methods of claims 1, 2, 3 and 17, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 41-44 are rejected for the same reasons given above for claims 1, 2, 3 and 17.

AA. Method claims 45-61 repeat the same limitations as method claims 1-14, 16, 18 and 20 respectively, therefore they're rejected with the same reasons given above for those claims, and incorporated herein.

BB. As per claims 62-66, they are apparatus claims, which repeat the same limitations of claims 45, 47, 54, 58 and 60, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the

teachings of White disclose the underlying process steps that constitute the methods of claims 45, 47, 54, 58 and 60, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 62-66 are rejected for the same reasons given above for claims 45, 47, 54, 58 and 60.

CC. Claims 67-86 repeat the same limitations as claims 1, 2, 2, 3, 4, 5, 6, 7, 8, 10, 1112, 13 and 14-20 respectively, therefore they're rejected with the same reasons given above for those claims, and incorporated herein.

DD. As per claims 87-94, they are system claims, which repeat the same limitations of claims 67-70, 76, 80, and 84, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of White disclose the underlying process steps that constitute the methods of claims 67-70, 76, 80, and 84, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 87-91, 93-94 are rejected for the same reasons given above for claims 67-70, 76, 80, and 84.

EE. As per claims 95-100, they are apparatus claims, which repeat the same limitations of claims 1, 2, 2, 3, 2 and 18 respectively, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of White disclose the underlying process steps that constitute the methods of claims 1, 2, 2, 3, 2 and 18, it is respectfully submitted that they provide the underlying structural elements that perform the steps as

well. As such, the limitations of claims 95-100 are rejected for the same reasons given above for claims 1, 2, 2, 3, 2 and 18.

FF.Claims 101-107 repeat the same limitations as claims 1, 2, 10, 12, 13, 14 and 18 respectively, therefore they're rejected with the same reasons given above for those claims, and incorporated herein.

GG. As per claims 108-114, they are apparatus claims, which repeat the same limitations of claims 101-107 respectively, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of White disclose the underlying process steps that constitute the methods of claims 101-107, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 108-114are rejected for the same reasons given above for claims 101-107.

HH. Claims 115, 116, 118, 120-124, 126-132 repeat the same limitations as claims 1, 2, 3, 7-11, and 14-20 respectively, therefore they're rejected with the same reasons given above for those claims, and incorporated herein.

II. As per claim 117, White discloses the method of claim 115, where the processor is integral with the medical device (White; col. 11, line 43 to col. 12, line 3).

JJ. As per claim 119, White discloses the method of claim 115, where the step of inputting at the central location is a step of inputting into a pharmacy computer (White; col. 6, line 48 to col. 7, line 57).

KK. As per claims 133-137, and 139-140, they are system claims, which repeat the same limitations of claims 115, 117, 116, 118, 123, 123 and 116 respectively, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of White disclose the underlying process steps that constitute the methods of claims 115, 117, 116, 118, 123, 123 and 116, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 133-137, and 139-140 are rejected for the same reasons given above for claims 115, 117, 116, 118, 123, 123 and 116.

LL. As per claims 141-145, they are apparatus claims, which repeat the same limitations of claims 115, 116, 118, 116 and 18 respectively, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of White disclose the underlying process steps that constitute the methods of claims 115, 116, 118, 116, and 18 it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 141-145 are rejected for the same reasons given above for claims 115, 116, 118, 116 and 18.

MM. Claims 146-150 and 152-154 repeat the same limitations as claims 1, 2, 3, 7, 8, 16, 18 and 20 respectively, therefore they're rejected with the same reasons given above for those claims, and incorporated herein.

NN. As per claim 155, White discloses a system for operating a medical device, the system comprising:

i. a digital assistant designed to read a first patient identifier, the first patient identifier being attached to a patient's body (White; col. 6, line 48 to col. 7, line 57, col. 13, lines 3-20),

ii. the digital assistant being designed to read a medication identifier at the remote location, the medication identifier including a second patient identifier and a first medical device identifier (White; col. 9, lines 31-58),

iii. the digital assistant designed to read a second medical device identifier at the remote location, the second medical device identifier being affixed to the medical device (White; col. 9, lines 31-58), and

iv. the digital assistant designed to trigger the transmission of an operating parameter for the medical device from a central location to a medical device, if the first patient identifier is equivalent to the second patient identifier, and if the medical device identifier and the second medical device identifier are equivalent (White; col. 6, line 48 to col. 7, line 57, col. 9, lines 31-58).

OO. Claims 156-159 repeat the same limitations as claims 3, 7, 8, and 14 respectively, therefore they're rejected with the same reasons given above for those claims, and incorporated herein.

PP. As per claims 160-164, they are apparatus claims, which repeat the same limitations of claims 146, 147, 148, 151 and 153 respectively, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of White disclose the underlying process steps that

constitute the methods of claims 146, 147, 148, 151 and 153 it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 160-164are rejected for the same reasons given above for claims 146, 147, 148, 151 and 153.

QQ. Claims 165-174 repeat the same limitations as claims 1, 3, 5, 7, 8, 10, 13, 14, 20 and 20 respectively, therefore they're rejected with the same reasons given above for those claims, and incorporated herein.

RR. As per claims 175-181, they are system claims, which repeat the same limitations of claims 165, 166, 168, 169, 171, 180, 181 respectively, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of White disclose the underlying process steps that constitute the methods of claims 165, 166, 168, 169, 171, 180, 181, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 175-181 are rejected for the same reasons given above for claims 165, 166, 168, 169, 171, 180, 181.

SS. As per claims 182-191, they are apparatus claims which repeat the same limitations of claims 165-174, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of White disclose the underlying process steps that constitute the methods of claims 165-174, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 182-191 are rejected for the same reasons given above for claims 165-174.

Response to Arguments

5. Applicant's arguments with respect to claims 1-191 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not used prior art teach Security infusion pump with bar code reader 6519569 B1, Prescription management system 5845255 A, Security badge for automated access control and secure data gathering 5960085 A, System and apparatus for administering prescribed medication to a patient 6032155 A, Injection tracking and management system 20010049608, System and method for communicating product recall information, product warnings or other product-related information to users of products 20010056359, Prescription management system 20020042726, Computerized prescription system for gathering and presenting information relating to pharmaceuticals 20020042725, Remote data collecting and address providing method and apparatus 6408330 B1, Data collection device and system 20020116509 Security infusion pump with bar code reader 6519569 B1.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. B. C./

Examiner, Art Unit 3626

JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER